



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/668,734

09/23/2003

John J. Toben

6006-141-1

2477

7590

09/26/2006

Nicholas J. Tuccillo, Esq.
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103

EXAMINER

GARCIA, ERNESTO

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/668,734 | TOBEN ET AL. | |
| | Examiner | Art Unit | |
| | Ernesto Garcia | 3679 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2006 and 09 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-16, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 and 21 is/are allowed.
- 6) ☒ Claim(s) 12-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 9, 2006 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings were received on August 9, 2006. These drawings are acceptable.

Specification

The disclosure is objected to because the second occurrence of reference character "206" on page 9, line 1, should be --220--. Appropriate correction is required.

Art Unit: 3679

Applicants remarked that the specification was amended to reflect this objection; however, no such change has been provided.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "a first fold which bent at a break point" recited in claim 12, line 4-5 lacks proper antecedent basis. Applicants argue that paragraph 031, lines 4-6 indicates "the break point 114 of the first fold 110" and thus provides the antecedent basis required. In response, applicants should note that this description is inaccurate because the break point 114 is of the second fold 112. Note that Figure 3 shows the break point 114 at the bottom of the second fold 112 and not of the first fold 110. According to Figure 3, there appears to be two break points one for each fold.

Claim Rejections - 35 USC § 112

Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, there is an inconsistency between the language in the preamble and a certain portion in the body of the claim, thereby making the scope of the claims unclear. The preamble clearly indicated that the seam is "for use in ductwork".

Art Unit: 3679

However, the body of the claim positively recites "the ductwork", e.g., "said seam having a male end portion integrally formed with said ductwork" (lines 1-2), "a female end portion integrally formed with said ductwork" (line 3), and "a first fold which is bent at a break point of a wall of said ductwork" (lines 4-5), which indicates that the claims are being drawn to a combination of the "seam" and the "ductwork". Accordingly, is the combination or subcombination being claimed? Appropriate correction, clarification, or both is required. For purposes of this Office action, the examiner has considered the seam alone.

Regarding claim 16, the recitation "the sealing angle" in line 2 lacks proper antecedent basis.

Regarding claims 13-15, these claims depend from claim 12 and therefore are indefinite.

Claim Rejections - 35 USC § 102

Claims 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Huffel, 2,086,143 (see marked-up attachment provided in the last Office action).

Regarding claim 12, as best understood, Iizuka discloses, in Figure 1a, 1b, and 2, a seam comprising a male end portion 1A and a female end portion 2. The female

Art Unit: 3679

end portion **2** includes a first fold **A1** (see marked-up attachment), a second fold **A2**, a third fold **A3**, and a fourth fold **A4**. The first fold **A1** is bent at a break point **A5** of a wall **2B**. The second fold **A2** is bent back upon the first fold **A1** and extends substantially adjacent to the break point **A5**. The third fold **A3** begins substantially adjacent to the break point **A5** and extends substantially parallel to the wall **2B**. The fourth fold **A4** is bent back against the third fold **A3**.

Regarding claim 13, the seam further comprises a sealing fold **2a** formed at a distal end of the fourth fold **A4**. The sealing fold **2a** is bent at a sealing angle to the fourth fold **A4**. Note that the recitation "prior to said male portion being inserted into said female groove" in lines 2-3 is irrelevant since the requirement is that the sealing fold be bent at a sealing angle.

Regarding claim 14, note that the first fold **A1** and the second fold **A2** form a hemmed angle between 10 to 60 degrees.

Regarding claim 15, the hemmed angle is approximately 30 degrees.

Regarding claim 16, a sealing angle (the angle between the third fold and the fourth fold) is between 45 to 60 degrees.

Allowable Subject Matter

Claims 20 and 21 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 20, the prior art of record does not disclose or suggest a method for forming a seam comprising bending a third fold beginning substantially adjacent to a break point and extending substantially parallel to a duct wall; the European patent, EP-71,586, teaches the third fold extending substantially coaxial to the duct wall. There is no motivation, absent applicant's own disclosure, to extend the third fold substantially parallel to the duct wall; and,

regarding claim 21, this claim depends from claim 20.

Response to Arguments

Applicant's arguments with respect to claims 12-16 have been considered but are moot in view of the new grounds of rejection. In particular, note the 112(2nd) rejection.

Art Unit: 3679

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-282-7083. The examiner can normally be reached from 9:30-5:30. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E.G.

September 19, 2006

Attachment: one marked-up page of lizuka, 6,056,021



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Art Unit: 3679

Iizuka, 6,056,021

Fig.1

